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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,074	12/29/2000	Scott W. Atkinson	046700-5032	3499
28977	7590	03/09/2006	EXAMINER	
MORGAN, LEWIS & BOCKIUS LLP 1701 MARKET STREET PHILADELPHIA, PA 19103-2921			HAMILTON, LALITA M	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/753,074	ATKINSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lalita M. Hamilton	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 December 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### Request for Continued Examination (RCE)

The RCE filed on December 30, 2005 has been entered. A non-final action follows.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausubel (6,026,383) in view of Shoham (6,285,989), as set forth in the previous Office Action.

Ausubel discloses the invention substantially as claimed; however, Ausubel does not disclose a second auction round including only bidders that were not awarded a contract in the first round or a second auction round that excludes non-leading bidders from the first round. Shoham teaches a method and corresponding system for on-line

auctions comprising a second auction round including only bidders that were not awarded a contract in the first round (col.13, lines 32-55) and a second auction round that excludes non-leading bidders from the first round (col.13, lines 32-55). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a second auction round including only bidders that were not awarded a contract in the first round and a second auction round that excludes non-leading bidders from the first round, as taught by Shoham into the invention disclosed by Ausubel, to allow the auction to be fair to all users participating.

***Response to Arguments***

Applicant's arguments filed December 30, 2005 have been fully considered but they are not persuasive.

Argument: Neither Ausubel nor Shoham disclose or teach limiting the participation of bidders in a next auction round based on a specific occurrence in the current auction round.

Response: Ausubel discloses bidders are not allowed to increase their bids from round to round (col.3, lines 15-27). This means that participation in the second round of bidding has been limited based on activities in the first round, although Ausubel does not specifically disclose this as being a "rule". Shoham teaches a method and corresponding system for on-line auctions comprising setting rules and constraints of the auction. These rules include, but are not limited to, specification of minimum accepted bids, bidding increments, and length of rounds (col.13, lines 32-55). The constraints include, but are not limited to, price restrictions, quantity restrictions, and/or

trader limits. Therefore, the Examiner found it to have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate additional rules and constraints taught by Shoham into the invention disclosed by Ausubel, to allow the auction to be fair to all users participating.

Argument: Neither Ausbel nor Shoman disclose or teach a second auction round including only bidders that were not awarded a contract in the first round or a second auction round that excludes non-leading bidders from the first round.

Response: Please reference rejection above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M. Hamilton whose telephone number is (571) 272-6743. The examiner can normally be reached on Tuesday-Thursday (6:30-2:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LMH